

Interim Decision #1998

MATTER OF KORYZMA

In Deportation Proceedings

A-14238613

Decided by Board July 31, 1969

In the absence of a waiver of the foreign residence requirement of section 212(e) of the Immigration and Nationality Act, an alien who was last admitted to the United States as an exchange visitor under section 101(a)(15)(J) of the Act and thereafter attended school for two years during which time he received scholarships on the basis of such status, is ineligible for adjustment of status under section 245 of the Act, as amended, notwithstanding he was stateless at the time of admission and alleges he objected to exchange visitor status when it was assigned to him.

CHARGE:

Order: Act of 1952—Section 241(a)(2) [8 U.S.C. 1251(a)(2)]—Exchange visitor—remained longer.

ON BEHALF OF RESPONDENT:
A. W. Hargreaves, Esquire
30 Hotelling Place
San Francisco, California 94111
(Brief filed)

ON BEHALF OF SERVICE:
Stephen M. Suffin
Trial Attorney
(Brief filed)

The case comes forward on appeal from the order of the special inquiry officer dated March 17, 1969 ordering that the respondent's application for status as a permanent resident under the provisions of section 245 of the Immigration and Nationality Act be denied, further ordering that he be granted voluntary departure on or before April 16, 1969, and further ordering that if the respondent failed to depart when and as required, he be deported from the United States to Chile on the charge stated in the order to show cause.

The respondent is a native of Austria, born of parents who were citizens of Poland, 24 years old, male, married, who resided in Chile since he was approximately four or five years of age. In 1964 the respondent came to the United States on a student visa. In June 1966 he returned to Chile in order to visit his parents.